Claim Status

Claims 1-20 remain in the application.

REMARKS/ARGUMENTS

Claims 1, 2, 5-6, 10, and 13-15 were rejected under 35 USC 102(e) as being unpatentable over Refai et al. (US 2003/0016632). This includes independent claims 1, 5, 10, and 14. Independent claim 19, although not rejected here, contain similar limitations to these independent claims and was rejected under Refai alone as being obvious in view of Refai.

Refai shows a communication system concerning a push-to-talk to push-to-conference communication regime. A push-to-talk group call is set up with active and inactive members. Active members can engage in the discussion via the push-to-talk mode of communication, whereas inactive members can only listen to the discussion. Examiner stated that for purposes of examining Applicant's claims, Examiner has interpreted "duplex mode" to refer to active members, and "simplex mode" to refer to inactive members. This interpretation is contrary to the teachings of Refai and Applicant.

Applicant sets forth that simplex calling, such as push-to-talk is where only one person may speak and all others can only listen until the presently speaking party stops transmitting, as described on page 1, lines 16-20, and is well known in the art. Refai recites a similar definition at [0003], where Refai points out that while a user may speak and listen, they cannot do both *at the same time*. Duplex communication, as Applicant describes at page 1, lines 11-15, and Refai describes briefly at [0003], is where, in a call between two users, each user can talk and listen at the same time. Accordingly, no button is needed to differentiate between speaking mode and listening mode as both commence simultaneously.

In Refai, all members of the conference, active and inactive, are using the simplex communication mode. Even when multiple people may be heard speaking by the listening members, the speaking members must still engage in push-to-talk simplex operation, as described at [0015] where Refai states, "[i]n this manner, active class members that are part of the conference talk *by pushing a button or other actuating mechanism* on their mobile terminals...and speaking." Thus, even though Refai mentions that there may be a "cacophonous

environment" resulting from multiple members speaking at the same time, each active member can still only speak or listen, but not both at the same time because each member is operating in simplex mode, necessitating the use of push-to-talk operation. In light of the foregoing, Applicant submits that Refai does not show the mode change from duplex to simplex, or vice-versa, claimed by Applicant.

Furthermore, Applicant's claimed limitations include that the communication session is established over a "data link" in all independent claims. Applicant defines data networks at page 2, lines 8-13, and provides examples of data networks such as the Internet. These networks are often referred to as "packet switched" networks and are distinguished from conventional voice or other real time information networks which are "circuit switched" networks. As is well understood in the art, in conventional voice networks, such as telephony, a dedicated "circuit" is established between parties. If a portion of the information is corrupted, the listener hears the results of the corruption. In a data network, a receiving station can request retransmission of corrupted information packets to ensure data integrity.

On page 2, line 21 to page 3, line 1, in Applicant's Summary of the Invention, Applicant explains that the claimed data link is established over a data network, and that the data link is used for carrying voice communication. This description is repeated throughout the Summary of the Invention. In the Description of the Invention, at page 6, lines 11-20, it is further described that the link or network may use Internet Protocol, and that the communication "appear[s] to be circuit switched." Applicant subsequently refers to this arrangement at page 7, lines 19-21 as Voice over IO (VOIP), which is an established and understood term in the art. Conversely, Refai uses a circuit switched approach, as indicated by FIG. 1 (MSC 14), and as described at [0011]. The acronym MSC stands for "mobile switching center" and is a well-understood term referring to a digital telephony switch which is used in establishing circuit switched calls among users of a mobile communication system and between users of the mobile system and users connected to a public switched telephone network (PSTN), which is also know to be circuit switched.

Thus, Refai does not show, teach, or suggest the claimed elements of calling modes (simplex/duplex) or establishing communication over data networks, as claimed in independent claims 1, 5, 10, 14, and 19. Accordingly, Applicant believe Refai to be inapplicable as prior art for showing these elements, and Applicant's claims are patentably distinguished from the teachings of Refai.

Claims 3-4, 7-9, 11-12, 16-18, and 20 were rejected under 35 USC 103(a) under Refai in view of Moss et al. (US 2004/0008680).

These claims are all dependent claims which depend form claims Applicant regards as allowable in view of the reasons given hereinabove. As stated with respect to Refai, Refai does not show the mode changing from simplex to duplex calling modes, or vice-versa. Neither does Moss. Moss is cited as showing communication over TCP/IP networks. Applicant points out that Moss also distinguishes between circuit and data switching at [0026]. Combining Refai and Moss would therefore provide a push-to-conference system over a data network, but would not provide the ability to switch from simplex to duplex, as described and claimed by Applicant. As such, Applicant likewise regards these claims as allowable

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

The Commissioner is hereby authorized to charge any fee due, or credit any overpayment, to Motorola, Inc., Deposit Account Number 50-2117.

Respectfully submitted,

By: _____

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